NO. 83-1588

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IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1983

VIRGINIA CRAMER,

Petitioner, Plaintiff and Appellant

VS

STATE BAR OF MICHIGAN;
JOHN D. O'HAIR;
WILLIAM LEO CAHALAN;
RICHARD D. KUHN;
H. ROLLIN ALLEN, and All
Members of the State Bar
of Michigan similarly
situated,

Respondents, Defendants and Appellees

PETITION FOR A WRIT OF CERTIORARI TO THE COURT OF APPEALS SIXTH CIRCUIT - (No. 82-1855) AND DISTRICT COURT, ED MICHIGAN SOUTHERN DIVISION - (No. 81-73926) AND

REQUEST FOR JURY TRIAL, MONETARY DAMAGES, INJUNCTIVE, AND DECLARATORY RELIEF

Virginia Cramer
Pro se Petitioner
27314 Clairview
Dearborn Heights,
Michigan 48127
(313) 278-7286

February 1984

QUESTIONS PRESENTED FOR REVIEW

1. Whether petitioner's direct appeal in the United States Court of Appeals from the federal district court's dismissal of the entire federal action primarily of "False Arrest and False Imprisonment", 42 USCA 1983, et seq., co-conspiratorially, and as a constitutional cause of action of deprivation of liberty by violations of the prohibitive provisions and limitations of the 4th, 5th, 6th and 14th Amendments to the U. S. Constitution, and tort liability in the clear and complete absence of all jurisdiction by judicial and law enforcement officers, beyond the authority granted by any valid statute, in their personal capacities as members of the State Bar of Michigan (not publicly owned), presented one or more "not plainly frivolous" issues entitling petitioner to have her appeal reviewed

and determined on the merits by the Court of Appeals, particularly in the light of no disparity between the parties on said appeal that "False Arrest and False Imprisonment", 42 USCA 1983, et seq., does state a claim upon which relief can be granted; that the district court's memorandum opinion is fraught with erroneous, inaccurate and fallacious findings as very obvious and exceptional showing of error, absent of any testimony; and also, particularly in the light of the standards set forth by this Court in Ellis v United States (not frivolous) 356 US 674; Argersinger v Hamlin (holding inter alia "that absent a knowing and intelligent waiver, no person may be imprisoned for any offense, whether classified as petty, misdemeanor, or felony" without a trial) 407 U.S. 25, 92 S Ct 2006 (1972); Aikens v Wisconsin (motive-conduct not privileged) 195 U S 194 (1904); Yaselli v Goff, 12 F 2d 396 (2nd Cir 1926, judge held

liable for damages in acting without jurisdiction), aff'd 275 U S 503 (1927); Stump v Sparkman (1978) not controlling: i.e., not to expectations of parties and petitioner's refusal to participate by "failing to voluntarily appear" in absence of jurisdiction, 435 U S 356, 98 S Ct at 1104; McMann v Richardson (lack of power, i.e., to bring charges in absence of complaining party or complaining witness) 397 U S 759, 90 S Ct 1441 (1970); and by the standards of related cases of the several circuits of the federal court of appeals in Harper v Merckle (illegality) 638 F 2d 1229 (7th Cir 1980); McAlester v Brown (required factors for jurisdiction) 469 F 2d 1280 (5th Cir (1972); Rankin v Howard (personal jurisdiction and subject-matter jurisdiction conjunctional, both must be met) 633 F 2d 844 (9th Cir 1980); Zarcone v Perry (judge solely invoked judicial power, i.e., Harper v

Merckle, supra; judge solely invoked his power for personal objectives, non-judicial act) 572 F 2d 52 (2nd Cir 1978); and the standards intended by the 1974 amendment to the Federal Tort Claims Act, Act of March 16, 1974, Pub.L. 93-253, 88 Stat. 50, and Norton v U. S., (CA 4th 1978) 581 F 2d 390, cert den 99 S Ct 613, 439 US 862; 28 USCA 2680 (h) and other related standards in Monell v Department of Social Services (1978) 436 U S at 690, 98 S Ct at 2035 "persons" under 42 USCA 1983, et seq.; U. S. v LePatourel (judiciary covered as employees) 571 F 2d 405 (modified C.A.8th, 1979, 593 F 2d 827); U. S. v Orleans (1976) (independent ground of jurisdiction, 42 USCA 1983, et seq.) 92 S Ct 1971, 425 U S 867; pertaining to tort liability, absence of jurisdiction, lack of power, absence of immunity, "persons" liable under 42 USCA 1983, et seq., and related matters, i.e. jurisdiction over subject-matter and person, both must be met.

2. Whether the Sixth Circuit Court of Appeals' refusal to determine petitioner's appeal on the merits constitutes an unconstitutional (under the Due Process and Equal Protection Clauses of the 14th Amendment to the U. S. Const.) or unlawful or otherwise invidiously discriminatory practices against a person representing herself -- particularly in the light of both plaintiff's (petitioner herein) and all defendants' pleadings showing that "she failed to appear before the Defendant-judges" in conflict and in contrast to the erroneous, inaccurate and fallacious findings of the federal district court and denial of rehearing thereon as very obvious and exceptional showing of error having particular force and effect in points of law -- particularly in the light of the court of appeals panel assignment of the instant case on Tuesday, November 15, 1983 and disposition of voluminous record on Monday, November 21, 1983 (per docket

entries) or three (3) to four (4) working days being insufficient and impossible time-period for proper review of record on direct appeal; particularly in the light of Faretta v California (1975) Slip Opinion No. 73-5772, U S Supreme Court, and the 4th and 6th Amendments to the U. S. Constitution, when the issues presented by petitioner's appeal are issues of a type which clearly would be reviewed and determined by the court of appeals on the merits in a comparable case presented by a competent and honest attorney if one could be found and available for the instant case. (After diligent and extensive search, such an attorney could not be found.) For instance, "75% to 90% of American trial lawyers are incompetent, or dishonest, or both" according to Chief Justice Warren Burger of the United States Supreme Court: see, Trial Lawyer's Guide, 1971, pp 108-109. Also, according to March 11, 1981,

U.S. News & World Report survey of judges, only 4% of American lawyers are competent. Further, see "A Sick Profession", 5 Tulsa L J 1, January 1968, Judge Warren E. Burger. See, also, Rosenberg: Stump v Sparkman: (1978) 435 US 356, 98 S Ct at 1104; Doctrine of Judicial Impunity (An invitation to judicial lawlessness) 1978, Vol 64: 833 Virginia Law Review.

3. Whether suitor-State Bar of Michigan (a private club), not publicly owned, not tax-supported, and its attorney-members, in the absence of a geographical status of municipality, county or state, are absolutely immune under the 11th Amendment to the U. S. Const. and 42 USCA 1983, et seq., as to intentional tort liability of false arrest and false imprisonment by the instigation and initiation of improper litigation materials and the 1981 procurement and enforcement of constitutionally void ex parte orders coram non judice (before one not a judge)

in the clear and complete absence of all jurisdiction, in the wrong jurisdiction, usurping the power of the State Supreme Court (see companion case, State Bar v Cramer (1976-77) 399 Mich 116-161, and not remanded (40 copies appended)), and the resulting co-conspiratorial plot between county circuit court judges of different counties acting in the clear and complete absence of all jurisdiction, in conflict with the provisions, limitations and bans of the State and Federal Constitutions, specifically:

(a) The due process and equal protection clauses of the 14th Amendment;

(b) The deprivation of liberty ban of the 5th Amendment by violations of the 4th and 14th Amendments;

(c) The provision in the First Amendment (freedom of speech or expression and peaceful assemblage) made applicable to the States by the Fourteenth Amendment, protecting persons from "state action" or exertion

of power for personal objectives of government agents or employees who are also members of the bar association in their personal capacities, and who force the general public to hire lawyers to generate litigation-business and fees for other members of the bar in conflict with the Michigan State Constitution, Art. I, Sec. 13, and in conflict with statutory provisions of MCLA 600.1430; MSA 27A.1430;

(d) The provisions in the Fourth Amendment (search and seizure) made applicable to the States by the Fourteenth Amendment, protecting persons from non-judicial acts of judicial officers using the judicial capacity to vindicate personal objectives, in perversion of camaraderie, in the absence of any party invoking the judicial machinery as to any dispute; - - - - - in conflict with the standards set down in Aikens v Wisconsin (motive-conduct not privileged) 195 U S 194 (1904); Yaselli v Goff (judge held liable for damages, in acts absent of jurisdiction) 12 F 2d 396

(2nd Cir 1926), Aff'd 275 U S 503 (1927); Stump v Sparkman, supra; Harper v Merckle, supra; Zarcone v Perry, supra; Rankin v Howard, supra; and other related cases, e. g., Ex parte Virginia, 100 US 339; Mitchum v Foster, ("state action"" 407 U S 225; 42 USCA 1983, et seq., Shelley v Kraemer (1948) prohibiting judicial enforcement of restrictive conditions, 334 US 1.

4. Whether the State Bar of Michigan (a private club) is entitled to claim sovereign immunity under the 11th Amendment to the U. S. Const., in conflict with the standards of Moose Lodge No. 107 v Irvis, 407 U S 163 (holding that discriminatory practices of a private club could not be attributed to the state merely because the state regulated the club and conferred benefits to it in the form of "licensing"), when the tort action of False Arrest and False Imprisonment occurred by, specifically:

(a) action by court officers beyond their statutory powers;

(b) even though within scope of their authority, powers themselves or manner in which they are exercised are constitutionally void; and

(c) that under the Rules Concerning State Bar of Michigan "waiver of immunity" is expressed and implied by grant of power to sue and be sued, as made applicable by the provisions and limitations of the Due Process and Equal Protection clauses of the 5th and 14th Amendments to the U. S. Constitution.

(d) That the members of the State Bar of Michigan are not licensed by the State.

5. Whether petitioner is entitled to jury trial and monetary damages for intentional tort of "False Arrest and False Imprisonment" for injuries to person, property and business.

6. Whether petitioner is entitled to injunctive relief against the State Bar of

Michigan members, as follows:

"A. Ordered and Adjudged that the members of the State Bar of Michigan, as applicable, the said defendants, their agents, representatives, employees and attorneys be restrained and enjoined from:

1. Harassing, hasseling, annoying, molesting and/or otherwise interferring and/or meddling with the trade and business of persons exercising their constitutional right of self-help and self-representation;

2. Denying and/or preventing access to information, forms, instructions, documents, typewriting assistance, filing assistance and services to individuals seeking to exercise their guaranteed constitutional right of self-representation in the courts of the State of Michigan;

3. Initiating or attempting to initiate and/or assisting to initiate any proceedings against Plaintiff-Virginia Cramer in the absence of a complaining witness, in the absence of probable cause, and/or in the

absence of real party in interest;

4. Harassing, hasseling, annoying or molesting any members of the general public utilizing services of the trade and busi= ness of Virginia Cramer, Plaintiff herein;

5. Engaging and/or assisting in engaging in a plot to prevent, interfere with, restrict or preclude the proper effectiveness in the aid of administration of justice;

6. Engaging and/or assisting in engaging in a plot and/or conspiracy against or inter- ferring with the trade or business of enabling persons of the general public to exercise self-representation;

7. Engaging in other conduct or miscon- duct contrary to the primary best interests and protection of the general public with regard to self-help and self-representation and services therefor;

8. Enforcing or attempting to enforce a judgment or Order which orders nothing. (inter alia) * * * ."

7. WHETHER THE PETITIONER AND THE GENERAL PUBLIC ARE ENTITLED TO DECLARATORY RELIEF IN THAT THEY SHALL NOT BE FORCED TO HIRE A LAWYER AND BE VICTIMIZED BY AND/OR BE SUBJECTED TO THE FUNDAMENTAL CHARACTER OF THE LACK OF QUALITY OF PERSONS IN THE LEGAL PROFESSION.

8. Whether the lower court judiciary, on behalf of themselves or on behalf of the State Bar of Michigan, have the power to enforce:

(a) An injunctive order which prima facie orders nothing;

(b) An injunctive order affirmed, retained and/or terminated and not remanded by the state supreme court;

(c) Ex parte orders procured or issued against a person in the absence of subject-matter jurisdiction;

(d) Ex parte orders procured or issued against a person in the absence of personal jurisdiction;

(e) Bench Warrants for the arrest of a person who intentionally "failed" to voluntarily appear on ex parte orders procured or issued without a hearing thereon; and thus,

(f) Constitutionally void orders by an arrest and imprisonment of a person when that person intentionally "failed" to appear because she knew she would be dealing with judges who had no subject-matter jurisdiction and no personal jurisdiction over said person.

The ultimate question presented is whether the district court and the Sixth Circuit court of appeals erred in determining that absolute immunity is applicable as to Tort liability of "False Arrest and False Imprisonment in the absence of both personal and subject-matter jurisdiction" as failure to state a claim upon which relief can be granted (FRCP 12 (b) (6)), and involves whether the judiciary may exert such power

in the courts so as to deny the general public and your petitioner access to the courts and relief sought unless represented by an attorney in civil actions and in conflict with Michigan Constitution, Art. I, Sec. 13 and statutory provisions of MCLA 600.1430; MSA 27A.1430; and by engaging in invidiously discriminatory practices to invalidly protect the legal profession in conflict with the provisions in 7 CJS 727, Practice of Law,

> " * * * In the enactment of statutes * * * the Legislature will be held to have intended only to protect the general public from exploitation, and not to protect the legal profession, especially since any such attempt of the latter would be invalid. * * * " (emphasis added) See, People v Black, 282 NYs 197, 156 Misc 516.

and in conflict with,

> "No presumption of innocence or improbability of wrongdoing exists in favor of the attorney." 7 Am Jur 2d, Attorneys at law, at 95;
>
> "he must refrain from doing an intentional wrong to the adverse party." 7 Am Jur 2d, Attorneys at law, at 4.

The main thrust of this action is that

petitioner was arrested and imprisoned for her refusal to participate and her intentional "failure" to appear voluntarily on constitutionally void ex parte orders, issued or procured coram non judice (before one not a judge) withouta hearing thereon, when your petitioner knew she would be dealing with judges who were acting ultra vires (beyond authority) or non-judicially, on classic hearsay (in "Cramer's" absence), in the clear and complete absence of personal jurisdiction and subject-matter jurisdiction, in the absence of issuance of Summons, in the absence of complaint and/or complaining party, absent of affidavit and service of process, absent of any specifics, absent of any showing of probable cause, and that the members of the State Bar of Michigan (lawyers and judges in their personal capacities) procured and issued constitutionally void ex parte orders and bench warrants in the clear and complete absence of all jurisdiction to bait, entrap, intimi-

date, coerce and/or force your petitioner to submit voluntarily to the county circuit court jurisdictions (Wayne County and Oakland County) to besiege her with litigation as dirty back-alley tactics, beyond the officials authority because the state cannot lawfully authorize its officials to violate the constitution, and usurping the power of the state supreme court in retention of an injunctive order affirmed but not remanded to any lower court obviously because the so-called injunctive order (dated January 5, 1973) prima facie orders nothing.

See, companion case, State Bar v Cramer, 1976-1977, 399 Mich 116-161 (copies appended); see, "Judgment for Plaintiff (State Bar) and Injunctive Order" dated January 5, 1973, in Petitioner's Appendix (tan cover).

9. Whether the judge of the district court and/or one or more of the judges of the court of appeals should have raised the issue of "judge's disqualification" when the judge's impartiality might reasonably

be questioned in a proceeding in which the judge

(a) is interested as a party and has regarded himself as one of the members of the autonomous political subdivision "The State Bar of Michigan", one who is "similarly situated", and

(b) is personally biased or prejudiced against a party-plaintiff and for a party-attorney (H. Rollin Allen, individual-defendant) and

(c) is a "United States officer" (but attorney-H. Rollin Allen, individual-defendant is not a United States officer) and thus, the district court judge improperly set aside the clerk's entry of default against defendant-H. Rollin Allen in the absence of a motion by the individual-defendant-H. Rollin Allen, in the absence of a showing of good cause, in the absence of a showing of a meritorious defense;

and in conflict with FRCP Rule 6. Time (b) Enlargement; FRCP Rule 12 (a) 20 days time;

FRCP Rule 55 Default (a) Entry, (b) Judgment; (c) Setting aside default; FRCP Rule 56 Summary Judgment (e) form of affidavits; further testimony; Defense Required * * * "affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, * * * ."

LIST OF RESPONDENTS, DEFENDANTS, APPELLEES

H. Rollin Allen, Member of Unauthorized Practice of Law Committee, State Bar of Michigan

John D. O'Hair,[1/] (former Judge of the Wayne County Circuit Court) Member of the State Bar of Michigan

William Leo Cahalan, (Judge of the Wayne County Circuit Court) Member of the State Bar of Michigan

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1/ This federal action against Defendant, Judge John D. O'Hair was commenced on October 21, 1981; John D. O'Hair resigned from the Wayne County Circuit Court bench on May 1, 1983.

Richard D. Kuhn, (Judge of the Oakland County Circuit Court) Member of the State Bar of Michigan

The State Bar of Michigan and All Members of the State Bar of Michigan similarly situated

NOTE: the above list excludes the following: United States court employees (federal), Michigan State Supreme Court members, Michigan Court of Appeals members, Attorney Grievance Commission members, Attorney Discipline Board members, Michigan Judicial Tenure Commission members.

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NO. _____

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1983

VIRGINIA CRAMER,

Petitioner, Plaintiff and Appellant,

VS

STATE BAR OF MICHIGAN;
JOHN D. O'HAIR;
WILLIAM LEO CAHALAN;
RICHARD D. KUHN;
H. ROLLIN ALLEN, and All
Members of the State Bar
of Michigan similarly
situated,

Respondents, Defendants and Appellees.

To the Chief Justice and Associate Justices of the Supreme Court of the United States:

Virginia Cramer in propria persona petitions for a writ of certiorari to review the memorandum opinion of the district court, the orders of dismissal of the entire action, the order affirming by the Sixth Circuit Court of Appeals in this case.

OPINIONS BELOW

The order and erroneous opinion of the Sixth Circuit Court of Appeals, No. 82-1855, filed November 21, 1983 is not per curiam and is not officially reported. See, separate volume (tan cover) Petitioner's Appendix, APPENDIX A, pp. 1 and 2, also issued as Mandate, December 29, 1984 (repeat 1984 date). Order denying stay of mandate was entered on December 27, 1983, APPENDIX B, p. 3. See Petitioner's Appendix (tan cover)

The erroneous memorandum opinion and erroneous finding of fact with erroneous conclusions of law by the U. S. District Court (No. 81-73926) was filed on July 1, 1982, APPENDIX D, pp. 6 - 25. Subsequently, Orders of dismissal as to all defendants were filed on July 7, 1982, July 12, 1982 and July 20, 1982 in the district court, APPENDIX E, APPENDIX F, APPENDIX G, pp. 26, 27 and 28, "Petitioner's Appendix".

Timely motion for rehearing was denied by the district court; memorandum opinion

filed on October 12, 1982, APPENDIX H, pp. 29 - 31; together with "Order Amending Memorandum Opinion of June 30, 1982" also filed on October 12, 1982, APPENDIX I, p. 31.

Subsequently, Orders denying rehearing were filed on October 14, 19 and 21, 1982; APPENDIX J, APPENDIX K, APPENDIX L, pp. 32, 34 and 35; None are reported.

Order denying "Remand" of State case of the Wayne County Circuit Court, No. 72-218-571-CZ, was filed on October 18, 1982. APPENDIX S, p. 89, and is not reported.

A companion case, State Bar of Michigan v Cramer (not remanded) reported at: 399 Mich 116-161, is substantially involved, photocopies (40) of which are separately appended together with "Petitioner's Appendix" (tan cover) hereto. The case was heard by only six (6) justices [2/] of the Michigan Supreme Court. Remittitur of discontinuance

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2/ (former) Associate Justice John B. Swainson (also formerly Governor of State of Michigan) disbarred and ousted from the Michigan Supreme Court (1976) involving bribery.

was issued January 20, 1977. See, EXHIBIT AA, infra, pp. 70-71.

JURISDICTION

The final order of the Sixth Circuit Court of Appeals (APPENDIX A) is dated November 21, 1983. The jurisdiction of this court is invoked under 28 USC 1254 (1) and 42 USCA 1983, 1985, 1986 and 1988. APPENDIX FF, APPENDIX GG, APPENDIX HH, pp. 163, 165, 166.

Original jurisdiction in the district court invoked under 28 USCA 1343, together with 42 USCA 1983, et seq. (See APPENDIX EE, p. 161.)

Petitioner has no parent companies, subsidiaries or affiliates. Also, respondents State Bar of Michigan submitted their "Disclosure of Corporate Affiliations and Financial Interest" in the negative, as Ordered by the Sixth Circuit Court of Appeals, No. 82-1855, on May 4, 1983; that the State Bar of Michigan is not a subsidiary or affiliate of a publicly owned corporation and that there is no publicly owned corporation with

a substantial financial interest not a party to the appeal. (See, Items 13 and 14, Docket Entries, C.A. No. 82-1855.) See, "Order" filed May 4, 1983, APPENDIX C, p. 4.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

First, Fourth, Fifth, Sixth and Fourteenth Amendments to the United States Constitution, in relevant parts, as shown in "Petitioner's Appendix" (tan cover) are involved; also, see Amendments Eight, Nine and Ten to the U. S. Constitution relevant herein; APPENDIX AA, APPENDIX BB, APPENDIX CC, APPENDIX DD, pp. 158, 159, 160, 161 of "Petitioner's Appendix".

The Eleventh Amendment to the United States Constitution, erroneously claimed by respondents State Bar of Michigan and in error by the district court, is shown at APPENDIX CC, p. 160.

Federal statutory provisions involved are 28 USCA 1343, 42 USCA 1983, 1985, 1986 and 1988, Federal Rules of Civil Procedure,

Rules 12 and 56. APPENDIX EE, APPENDIX DD, APPENDIX GG, APPENDIX HH, APPENDIX II, pp. 161 - 169.

Michigan Constitution of 1963, Art. I, Sec. 13; Michigan Statutory provisions, MCLA 600.1430; MSA 27A.1430; MCLA 600.1901; MSA 27A.1901; MCLA 600.1905; MSA 27A.1905; MCLA 600.1912; MSA 27A.1912; MCLA 600.1815; MSA 27A.1815; MCLA 600.1711; MSA 27A.1711; (Revised Judicature Act, Michigan Compiled Laws Annotated and Michigan Statutes Annotated) are involved as shown in Petitioner's Appendix (tan cover), together with Michigan General Court Rules 760.1, 865 and 866, and "Rules Concerning State Bar of Michigan" Rules 1, 5 and 16 -- APPENDIX JJ, KK, LL, MM, NN and OO, pp. 169 - 176.

MCLA 600.916; MSA 27A.916 erroneously claimed by defendants and the district court is shown at APPENDIX PP, p. 177, but is <u>not</u> involved.

STATEMENT

BACKGROUND OF FACTS

In 1973, suitor State Bar of Michigan, an autonomous political subdivision, a private club of lawyers and judges (a public body corporate, not publicly owned, not tax-supported) obtained a "Judgment for Plaintiff (State Bar) and Injunctive Order", Case No. 72-218-571-CZ, in the Wayne County Circuit Court, against "Cramer" and others. A fair reading of said "injunctive order" dated January 5, 1973, signed by Judge John D. O'Hair, shows that it prima facie orders nothing. See, EXHIBIT A, appended, infra, p. 66.

Subsequently, "Cramer" (Petitioner herein) was found in contempt of said "injunctive order", fined and jailed various and numerour times and her office was "pad-locked", by Judge John D. O'Hair, Defendant herein. Ultimately, "Cramer" alone appealed. The Michigan Supreme Court affirmed the injunctive order together with one contempt, re-

versing the other contempts, and did not remand the case, nor any part of it, to any other jurisdiction. See, companion case, State Bar v Cramer, 1976-1977, reported at 399 Mich 116-161, photocopies annexed to "Petitioner's Appendix" hereto.

Rehearing was not sought. Remand was not requested. Remittitur of discontinuance was filed January 20, 1977, EXHIBIT AA, infra, p. 70; MGCR 865 and 866, APPENDIX NN, p. 174.

No mandate was filed in the Wayne County Circuit Court and the original record of Civil Action No. 72-218-571-CZ was not returned to the lower court following the perfected appeal in the Michigan Supreme Court, as pertaining to "Cramer".

In the interim, defendant-respondent attorney-H. Rollin Allen, co-conspiratorially with various and several county circuit court judges of different counties in the State of Michigan, have been "ambulance-chasing", in effect, and soliciting directly to numerous individuals who sought to exer-

cise their guaranteed constitutional right of self-representation (Michigan Constitution of 1963, Art I, Sec 13 and MCLA 600. 1430; MSA 27A.1430, pp. 169-170 Petitioner's Appendix), but who were intimidated, harassed and hassled by court officers in various ways. For example, see EXHIBIT BB, letter to Rosetta Hadley, dated March 13, 1981, EXHIBIT BB, infra, p. 126. See, also, Transcripts of proceedings (1972-1980) Sykes v Sykes, Hudson v Hudson, Austin v Austin, Chapman v Chapman, APPENDIX W, APPENDIX X, APPENDIX Y and APPENDIX Z, pp. 128 - 157.

The bar association members have never been able to find a person to sue "Cramer", although they have solicited for this purpose of besieging "Cramer" with litigation, for more than ten (10) years.

Also, in the interim of 1975, Judge Richard D. Kuhn, defendant-respondent herein, had issued constitutionally void ex parte orders against "Cramer" and misdemeanor bench warrants for "Cramer's" arrest, "for failure to appear" in the cases of Seaholm

v Seaholm No. 74-115-277-DO, and Horn v Horn No. 75-121954-DO, Oakland County Circuit Court. See, Docket Entries of these two cases shown in EXHIBIT B-2, infra, p. 109 - 110.

The said constitutionally void orders and bench warrants, issued by Judge Richard D. Kuhn (Oakland County) were entered as liens on "Cramer's" vehicle operator's license in 1975 and remained for "State-wide pick-up" until sometime in 1981. "Cramer" was arrested and jailed on June 12, 13, 14 and 15, 1981 in the Wayne County Jail and Oakland County Jail. See, APPENDIX T and U, pp. 90 - 101, Transcripts of 6/5/81 and 6/12/81.

Also, in 1975, Judge Richard D. Kuhn purposefully caused or affirmatively encouraged the dispatch of seven (7) government vehicles filled with personnel of the Oakland County Sheriff's office and the Dearborn Heights City police and detectives on execution of his bench warrant issued in the case of Seaholm v Seaholm for "Cramer's" arrest. TR-26 and TR-27, January 25, 1982, Transcript, infra, pp. 129 - 190. Also, EXHIBIT in

Volume III of Appellant's Appendix, page 360, U.S. Court of Appeals No. 82-1855 "General Case Report, Dearborn Heights Police Dept. Assisting Oakland County Sheriff, dated April 10, 1975."

In February and March, 1981, without a remand by the Michigan Supreme Court in the 1976-1977 companion case of State Bar v Cramer, supra, attorney-H. Rollin Allen procured ex parte orders issued by Judge John D. O'Hair and Judge William Leo Cahalan, Wayne County Circuit Court, without a hearing thereon. See, State Case Docket Entries involved, EXHIBIT AAA, infra, p. 72.

"Cramer" did not appear and intentionally disregarded the ex parte orders, because she knew she would be dealing with judges who had no subject-matter jurisdiction and were absent of personal jurisdiction over "Cramer", in the lower court. On April 29, 1981, Judge O'Hair issued a bench warrant for "Cramer's" arrest when she "failed to voluntarily appear" on April 24, 1981. EXHIBITS AA-6, AA-7, infra, p. 86; and see, Transcript of proceedings had

on June 5, 1981, APPENDIX T, pp. 90 - 96, and in part, as follows: (Quotation)

> "THE COURT: (Judge O'Hair) It seems to me that we have to have her assurance in Court, either on a voluntary basis or an involuntary basis and the former has not proved at all, so it seems that the latter course is necessary."

On June 12, 1981, "Cramer" was arrested at her residence in Dearborn Heights, Michigan and transported to Detroit, Michigan, and forcibly brought into Judge O'Hair's courtroom at approximately 3 P. M. See, Transcript of June 12, 1981, APPENDIX U, pp. 97 - 101, in part, as follows: (Quotation)

> "THE COURT: (Judge O'Hair) You are brought in on the warrant as a result of your failure to respond to the Court's order to show cause. * * * There is a problem that has been brought to my attention. * * * In addition to the warrant I issued, two have been issued out of the Oakland County Circuit Court and they have holds for you in the event you are arrested * * * You are not going to get out of jail.
>
> * * *
>
> "MRS. CRAMER: There is no case pending in the Oakland County Circuit Court that would name anyone to make me a party to any kind of action in the Oakland County Circuit Court. There is no jurisdiction in the Oakland County Circuit Court and I claim

likewise, there is no jurisdiction in the Wayne County Circuit Court.

"THE COURT: You are not asked to. * * *

"MRS. CRAMER: Your Honor has been charged with exceeding his jurisdiction in the Michigan Supreme Court. I am sure you had an opportunity to read the pleadings.

"THE COURT: Mrs. Cramer, the hearing is over."

On June 12, 1981, "Cramer" deposited $1,000 cash "bond" with the Wayne County Jail, for her release pending the date set by Judge O'Hair as June 17, 1981. However, "Cramer" was not released; instead, she was jailed in the Wayne County Jail to await the arrival of the Oakland County Sheriff's deputies who, at about 7 P. M. arrested "Cramer" at the Wayne County Jail and transported her to the Oakland County Jail, in Pontiac, Michigan. "Cramer" was booked, fingerprinted, mugged, deprived of her liberty, clothes, personal effects, money, jewelry, purse, and jailed on June 12, 13, 14 and 15, 1981.

On June 15, 1981, at approximately 11 A.M. (Monday) "Cramer" was forcibly brought, handcuffed, chained and shackled, into Judge Rich-

ard D. Kuhn's courtroom (Oakland County).

"Cramer" had never before been in Judge Kuhn's presence or in his courtroom; not on any occasion. Judge Kuhn did not "examine" "Cramer" on anything. (See, EXHIBIT B, infra, p. 99, Letter dated February 24, 1976, to Judge Kuhn and others.)

After about an hour, "Cramer" was taken back to the Oakland County Jail and released at approximately 3 P. M. at the rear of said Jail, on June 15, 1981.

On June 17, 1981, "Cramer" expected restitution of her $1,000 (cash) "bond", so she showed up in Judge O'Hair's courtroom at 9:00 A.M. for that purpose and that only. However, the $1,000 cash was not refunded to her until on August 11, 1981, where Judge O'Hair adjourned the matter to August 11, 1981. In the interim, "Cramer" did not respond to the State Bar's (H. Rollin Allen's) motions and amended motion (Wayne, No. 72-218-571-CZ) and on July 13, 1981 "Cramer" filed her "Special and Limited Appearance, In Propria Persona" with her Motion to Quash

Service and to dismiss for lack of jurisdiction, in the Wayne County Circuit Court. See, EXHIBIT B-1, infra, p. 89. Also, see EXHIBIT D, infra, p. 104, not signed, not entered. Further, see EXHIBIT E, infra, p. 105, "Affidavit of William W. Neville" filed in the federal district court on November 13, 1981. It appears that Judge O'Hair contemplated jailing "Cramer" again, for 30 days, unless she paid money to Mr. Neville who did not ask for anything, who did not want anything from "Cramer".

See, EXHIBITS B-3, B-4, B-5, B-6, B-7, B-8, B-9, B-10 and B-11, infra, pp. 112-125, which includes the constituionally void orders and bench warrants issued by Judge Richard D. Kuhn, without a hearing thereon, in the absence of personal jurisdiction and in the absence of subject-matter jurisdiction, as pertaining to "Cramer". Also, no affidavits were filed or served, no summons issued, no complaints filed, no amended complaints or allegations were filed, no notice of hearing was filed, as pertaining to "Cramer".

Further, see EXHIBITS AAA, AA-1, AA-2, AA-3, AA-4, AA-5, AA-6, AA-7, infra, pp. 72 - 88, and EXHIBIT D, p. 104, in connection with EXHIBIT E, p. 105, "Affidavit of William W. Neville" in part, as follows: (Quoting)

> "1. That he is the William W. Neville who was subpoenaed by H. Rollin Allen as the attorney for the State Bar of Michigan for proceedings held in the Wayne County Circuit Court, State of Michigan, before the Honorable John D. O'Hair on August 11, 1981.
>
> "2. That he appeared and gave testimony on said date of August 11, 1981, in the said proceedings before the said Honorable John D. O'Hair.
>
> "3. That he has read the transcript of the proceedings of August 11, 1981, before the Honorable John D. O'Hair as appears to be submitted and filed in the United States District Court, Docket No. 81-73926 attached to the pleadings of H. Rollin Allen under date of October 30, 1981.
>
> "4. That pertinent herein is the Honorable John D. O'Hair's statement on pages 7 and 8 of the herein aforementioned transcript of August 11, 1981, as follows:
>
> > "She is also to forthwith pay into the Court, a sum of $95.00. That fee that she charged Mr. Neville for rendering service, immediately. * * * Prepare a proposed order, Mr. Allen. If the $95 is not paid within the five days as ordered, Mrs. Cramer is to be committed to the Wayne County Jail."

"5. That your affiant herein noticed that the said herein described transcript of August 11, 1981, as submitted and attached to the copies of pleadings by H. Rollin Allen, omits the testimony of said William W. Neville, affiant herein.

"6. That your affiant did not request any refund of any moneys as pertaining or relative to or involving this matter; that he does not want any repayment or refund or reimbursement of any moneys pertaining or relative to or involving this matter.

"7. That your affiant did not authorize anyone to request any refund to him of any moneys involving this matter.

"8. That your affiant believes that the attorney-H. Rollin Allen has unduly imposed upon and harassed your affiant; that your affiant did not and has not engaged the services of H. Rollin Allen; and further, that no attorney, especially not H. Rollin Allen, has been authorized to represent the said William W. Neville, affiant herein.

Filed 11/13/81 /s/ WILLIAM W. NEVILLE * * * "

Further, EXHIBIT D, infra, p. 104, Proposed Judgment submitted by H. Rollin Allen as of October 5, 1981, Wayne Circuit Court Case No. 72-218-571-CZ (which was not remanded by the Michigan Supreme Court, 399 Mich 116, Docket No. 56413) reads, in part as follows:

"It is FURTHER ORDERED that Defendant (Cramer) shall forthwith pay into the Wayne County Circuit Court the sum of Ninety-Five Dollars ($95.00), which sum was charged William W. Neville."

* * *

"IT IS FURTHER ORDERED that if Defendant, Virginia Cramer, does not pay the sum of Ninety Five Dollars ($95.00) to the Wayne County Clerk on or before August 16, 1981, Defendant shall be committed to the Wayne County Jail."

As aforementioned, with reference to EXHIBIT A, infra, p. 66, which is the "injunctive order" dated January 5, 1973, it orders nothing and was not remanded by the Michigan Court.

Petitioner "Cramer" claims that, on June 12, 13, 14 and 15, 1981, she was falsely arrested and falsely imprisoned on constitutionally void ex parte orders procured by H. Rollin Allen on behalf of the State Bar of Michigan and issued by Judges John D. O'Hair and William Lee Cahalan of the Wayne County

Circuit Court, members of the State Bar of Michigan in their personal capacities, in the clear and complete absence of all jurisdiction.

Petitioner "Cramer" further claims that, also, on June 12, 13, 14 and 15, 1981, she was falsely arrested and falsely imprisoned on constitutionally void ex parte orders issued by Judge Richard D. Kuhn, Oakland County Circuit Court, on behalf of himself in his personal capacity (non-judicially) and as a member of the State Bar of Michigan, in the clear and complete absence of all jurisdiction.

Petitioner "Cramer" further claims that, the ex parte orders procured and/or issued in both the Wayne County Circuit Court and the Oakland County Circuit Court, were, in fact, done so in the clear and complete absence of subject-matter jurisdiction and in the clear and complete absence of personal jurisdiction over "Cramer"; in the absence of authority, coram non judice (before one not a judge).

On October 21, 1981, Petitioner "Cramer" filed her complaint in the federal district court, together with ex parte "removal" of the Wayne County Circuit Court action No. 72-218-571-CZ, involving only the State Bar's initiation of ex parte motions and ex parte orders procured and issued in February and March 1981 and up to the contemplated entry of the "proposed" Judgment as of October 5, 1981. These were the actions taken by attorney-H. Rollin Allen on behalf of the State Bar and the actions taken by the Wayne Circuit judges, subsequent to the determination of the Michigan Supreme Court decision and opinions of 1976-1977 (reported at 399 Mich 116-161) and not remanded to any lower court, in the same case No. 72-218-571-CZ.

Petitioner "Cramer" claims that such ex parte orders of February 17 and March 13, 1981 (Wayne County Circuit Court), further, usurped the Michigan Supreme Court's power to retain or enforce or terminate the "injunctive order dated January 5, 1973" which prima facie orders nothing. Thus, Petitioner

"Cramer" further claims that the ex parte orders of February 17 and March 13, 1981 procured and issued in the Wayne County Circuit Court are constitutionally void, and that the action taken by the State Bar of Michigan and the Wayne County Circuit Court judges are absolutely void, in the clear and complete absence of all jurisdiction.

See, APPENDIX N, "Petitioner's Complaint" and APPENDIX M, "Removal of State case," APPENDIX O, "Petitioner's Motion to Amend Petition for Removal of State Case" claiming 'state action' involved. Further, Petitioner sought to enjoin the members of the State Bar of Michigan (see, "Complaint"), pp. 36 - 76.

On November 13, 1981, Entry of Default against attorney-H. Rollin Allen was filed for his failure to plead and defend within the 20-day time period prescribed by FRCP Rule 12, APPENDIX II, pp. 167-169. Defendant-attorney H. Rollin Allen sought no relief from the court as to said "Entry of Default".

All defendants moved to dismiss, or in the alternative for a grant of summary judg-

ment. All defendants allege they enjoy "immunity" (of one sort or another) from the intentional tort liability for "False Arrest and False Imprisonment".

On June 30, 1982, the federal district court dismissed Plaintiff-petitioner's action by memorandum opinion (with erroneous and fallacious contentions and erroneous conclusions) filed July 1, 1982. The district court stated that "suits for damages under 42 USC 1983 against a "state agency" are prohibited by the 11th Amendment", as pertaining to the State Bar and Allen, its attorney. Petitioner "Cramer" asserts that the 11th Amendment is not applicable for the reason that the State Bar and Allen are not a part of any tax-supported State agency and that under the "Rules Concerning the State Bar of Michigan", a self-interest group, Rules 1, 5 and 16, they have waived "immunity" constitutionally, among other reasons. APPENDIX 00, pp. 175 - 176.

Further, the district court stated that the three (3) judges, John D. O'Hair, William

Leo Cahalan and Richard D. Kuhn are protected from liability to plaintiff by the doctrine of "judicial immunity" relying solely on Stump v Sparkman, 435 U. S. 349 (1978), erroneously.

Petitioner "Cramer" asserts Stump, supra, is not applicable and not controlling for many reasons, among which, that subject-matter and personal jurisdiction are conjunctional; both must be met before a court has authority to adjudicate the rights of parties to a dispute. Rankin v Howard, 633 F 2d 844 (1980); Lopez v Vanderwater, 620 F 2d 1229, 1235-37 (7th Cir 1980); Duba v McIntyre, 501 F 2d 590, at 592 (8th Cir 1974); Ryan v Scoggin, 245 F 2d 54, at 58 (10th Cir 1957); Harper v Merckle, 638 F 2d 848 (5th Cir 1981); DeKuyper v DeKuyper, 365 Mich Rep 487; United States v (United) Mine Workers, 330 US 258, at 293, 67 S Ct 677 (1947); Maness v Meyers, 419 US 449, 458-459, 95 S Ct 584 (1975).

Further, see, "Rosenberg (Associate Law Professor): Stump v Sparkman: The DOCTRINE OF JUDICIAL IMPUNITY, 64 Va L Rev 833, 836

(1978) ("Stump" is a possible invitation to judicial lawlessness"). And see, Yaselli v Goff, 12 F 2d 396 (2nd Cir 1926) Aff'd 275 US 503 (1927); Zarcone v Perry, 572 F 2d (2nd Cir 1978); Aikens v Wisconsin, 195 US 194. (1904); In re Wellman, 3 Kan App 100, 45 P 726 (1896); McAlester v Brown, 469 F 2d 1280 (5th Cir 1972); Watkins v Dunbar, (Ill. 1925) 149 NE 14; Rammage v Kendall, 168 Ky 26, 181 SW 631.

Further, see, MCLA 600.1901; MSA 27A. 1901, MCLA 600.1905; MSA 27A.1905, MCLA 600. 1912; MSA 27A.1912, MCLA 600.1815; MSA 27A. 1815 (capias ad respondendum is abolished and no civil actions shall be started by arrest) MCLA 600.1711; MSA 27A.1711, 59 Am Jur 2d, Parties, at 1, 11 and 192 et seq. APPENDIX KK, APPENDIX LL, APPENDIX MM, pp. 170-173 "Petitioner's Appendix" (tan cover). "Cramer" was not a party in any suit in either the Wayne County Circuit Court or the Oakland County Circuit Court at the time the constitutionally void Ex Parte orders were issued and at the time she was arrested and jailed on June 12, 13, 14 and 15, 1981.

Plaintiff-petitioner's motion for rehearing was denied and the district court entered an "Order Amending Memorandum Opinion" filed on October 12, 1982, APPENDIX I, p. 31.

On timely appeal to the Sixth Circuit Court of Appeals, the court issued its Order on November 21, 1983 affirming the lower court memorandum opinion, and pursuant to Rule 9(d)(2), Rules of the Sixth Circuit, as a "frivolous" appeal. Stay of Mandate was timely sought, which the Sixth Circuit Court of Appeals denied on December 27, 1983, and issued the Mandate dated December 29, 1984 (repeat) 1984; APPENDIX B, p. 3.

REASONS FOR GRANTING THE PETITION

Presented in this case are important constitutional questions concerning the judiciary and the State Bar of Michigan, co-conspiratorially, in exertion of power, by improper methods, improper allegation procedure, improper litigation materials, usurping the power and authority of the State supreme court, among other drastic irregularities,

where your petitioner was arrested and imprisoned for refusal to participate and "failure to voluntarily appear" on such constitutionally void orders.

Defendants-respondents sought to bait, intimidate, coerce and/or force your Petitioner to submit voluntarily to the jurisdiction of the Wayne County Circuit Court and the Oakland County Circuit Court, in malice and bad faith.

The memorandum opinion of the district court and the disposition of the case, affirmed by the Sixth Circuit court of appeals, seriously misconstrues this Court's decision in Stump v Sparkman, 435 U S 356, at 356-357-362. Said memorandum opinion also raises further constitutional questions, and in reference to Stump v Sparkman, supra, to the extent that if Linda Sparkman had "failed to voluntarily appear" or refused to participate, would this Court have found her in contempt? would she have been arrested, jailed and imprisoned and forced to submit involuntarily? would she have been forcibly made to "appear" on orders issued without prior notice or

without a hearing, without an opportunity of confrontation, without affidavits of witnesses, without a complaint, without a summons issued, without being made a "party" to a suit?

In the instant case are further important constitutional questions involving the judiciary acting out of personal motivation and using the judicial office as an offensive weapon to vindicate personal objectives, and where no "party" had invoked the judicial machinery. The Fifth Circuit Court of appeals, in Harper v Merckle (1981) 638 F 2d 848, held

> "these nonjudicial acts, to state the obvious, are not cloaked with judicial immunity from suit under section 1983".

Particularly in view of Rankin v Howard (9th Cir 1980) 633 F 2d 844, holding,

> "Requirements of subject matter and personal jurisdiction are conjunctional, as both must be met before a court has the authority to adjudicate rights of parties to a dispute."

and, in the instant case involving whether the "judge" may be the only disputing non-party, together with Harper v Merckle, supra, the

lower court's dismissal of the instant entire action and the court of appeals affirming the disposition, in conflict with Harper v Merkle,[3/] supra, Rankin v Howard, supra, and Stump v Sparkman, supra, review of the decision below is most essential.

This case is of first impression. The memorandum opinion of the district court with erroneous, inaccurate and fallacious findings therein are very obvious and an exceptional showing of error. For example, in Michigan, proceedings may not be "commenced" by MCLA 600.1711 and MGCR 760.1 where prior jurisdiction has not been obtained and the "person" is not a party to a suit. See, Petitioner's Appendix (tan cover), APPENDIX KK and APPENDIX

3/ In 1983, Arden Merckle resigned as chief judge of the circuit and left the bench in shame. The resignation came after a newspaper reported how he had switched a sentence in a cocaine case from a jail term to probation as a favor to a fellow judge. The Judicial Qualifications Commission found Merckle unfit to be a judge. However, Merckle is still a member of the Florida Bar and on the list of special assistant public defenders and can be appointed to cases with state-paid fees.

LL, pp. 170, 171 and 172; MCLA 600.1901, MCLA 600.1905, MCLA 600.1912 and 59 Am Jur 2d, Parties, at 1, 11, 192.

For Petitioner's questions presented for review, 1 through 9, at pages 1 through 20 herein, the character of the reasons for considering and granting certiorari may be summed up as follows:

Petitioner-Cramer is a non-lawyer advocate of "Do-it-yourself Divorce". This idea apparently originated in the State of California in about 1972, where currently, it is said that 30% to 40% of the divorces obtained in California are by the persons handling their own divorce matter, without lawyers. Also, the idea of do-it-yourself-divorce has expanded into approximately 15 other states, so far, where constitutionally the people have a guaranteed right to represent themselves, in civil actions.

However, judicial officials performing certain functions analogous to those of complaining adverse party, complaining witness, investigator, interrogator, finder of infer-

ences on wrong conclusions, finder of fact, prosecutor, executioner, prejudicial biased judge, abandoning impartiality and acting on behalf of the bar association, forcing the people to hire lawyers and/or issuing constitutionally void orders against "Cramer", and utilizing the judicial machinery for personal objectives on their own behalf, should not be able to claim absolute immunity with respect to such illegal acts. See, Harper v Merckle, supra; Yaselli v Goff, 12 F 2d 396 (2nd Cir 1926) (collecting authorities), aff'd mem., 275 U S 503 (1927).

In essence, the character of this case boils down to where the residue remaining is the lack of quality of the persons in the legal profession. Hardly a day goes by and we hear or read of the "wrongdoings" of judges and lawyers. Where it is said (quoting Chief Justice Warren E. Burger) that 75% to 90% of the lawyers are either incompetent, or dishonest, or both; and where judges resign from the bench in shame as unfit for judicial office, but then, they are still members of

the bar, and where people are forced to hire these incompetents and/or dishonest members of the legal profession, it does little or nothing to promote public confidence in our legal system.

The legal profession has been adamant about self-regulation and even about the necessity for secrecy in handling its disciplinary affairs. Dishonored judges have been given assignments back on the public payroll which is no way to convince the public that the status has been earned.

In our legal system, which is the most expensive and least efficient of anything that can be named, the people are subjected to the wrath of the terrorist-gang of the organized legal mafia and the unsporting contest of dirty back-alley tactics of incompetent and dishonest lawyers and judges who cover-up for each other, at the terrible expense of the general public and taxpayers.

The legal profession apparently has an unconditional admiration for the wrong doings of lawyers and judges. The more attempt is

made to change things, the more they stay the same.[4/] They act in accordance with their fundamental character of arrogance and hypocrisy. They treat the opposition of laypeople as puny and therefore they feel free to subjugate the people through fear resulting in exploitation and victimization of laypeople. The entire scheme centers on generating more litigation and more business for lawyers, at taxpayer's expense.

Further, in this instant case, the State Bar of Michigan and its attorney H. Rollin Allen (as suitor in the action of false arrest and false imprisonment) claim they are entitled to "sovereign immunity" under the 11th Amendment to the U. S. Constitution, in the absence of a geographical status. Even so, "false arrest and false imprisonment" is a constitutional cause of action (deprivation of liberty), and where the State Bar usurped the power and the authority of the Michigan Sup-

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4/ It was Abraham Lincoln who said "Never wrestle with pigs in the mud because the pigs like it that way."

reme Court where there was "no remand" in the same case, and jurisdiction was not restored to the lower court, constituting a violation of the due process and equal protection clauses of the 5th and 14th Amendments to the U. S. Constitution.

Certainly no decision of this Court or any federal court of appeals has previously suggested that "jurisdiction of a lower court is restored without a remand". See, 5B CJS Appeal and Error, Mandate and Proceedings in Lower Court, at sections 1958, 1959, 1962,

> "* * * The lower court does not have the power to act on the judgment of the appellate court until the mandate is received. (citing, Morris v Radley, (1943) 306 Mich 689, 11 NW 2d 291), and action taken by the lower court before the receipt or issuance of the mandate is absolutely void and required to be dismissed or set aside." (emphasis added)

Moreover, see 5B CJS "Waiver", at 1959, "the requirement of a formal remanding order may be waived as by the voluntary appearance of the parties and their participating in subsequent proceedings in the lower court without objection." In the instant case,

"Cramer" did not appear voluntarily. She refused to participate and disregarded the ex parte order because jurisdiction was not restored to the lower court in State Bar v Cramer (not remanded) 399 Mich 116-161. "Cramer" knew she would be dealing with judges in the Wayne County Circuit Court who had no subject-matter jurisdiction to enforce the "injunctive order of January 5, 1973" which orders nothing, affirmed and retained and/or terminated in the Michigan Supreme Court.

Consistently, without exception, where an appeal is taken and perfected and not remanded by the supreme court to any lower court, the court below is without jurisdiction in the matter; i. e.,

> "The mandate of the Appellate Court is res judicata if it is final and conclusive and if it does not order a general remand to the lower court."
> Relph v Board of Ed. of DePue Unit School Dist. No. 103 of Bureau County, 39 Ill Dec 331, 404 NE 2d 922 (1980)
>
> "Jurisdiction of trial court is ousted until appellate court renders judgment with mandate returning jurisdiction to trial court."
> Shirley v Shirley, 361 So 2d 590 (1978)

"Trial court lacks power to deviate from terms of appellate mandate in absence of permission from appellate court to do otherwise." (Fla 1977) Mendelson v Mendelson, 341 So 2d 811

"A trial court is without authority to depart from terms of an appellate mandate." (1978) Alaska Airlines Inc. v Seat, 584 P 2d 544.

"Circuit Court order entered without mandate from Supreme Court was entered without jurisdiction and thus had to be set aside." (Ark 1975) 525 SW 2d 915.

"Mandate should be recorded before further proceedings are had in trial court." (Conn 1972) Nowell v Nowell, 302 A 2d 260, 163 Conn 116.

"A mandate or an order of remand is necessary to reinvest a lower court with jurisdiction to proceed with a case which has been appealed." (Tenn 1960) Sanders v Loyd, 364 SW 2d 369.

"Lower court was without jurisdiction to consider motion where Supreme Court had not ordered a remand." Couture v Lowery, 177 A 2d 371 (1962); Turner v Bragg, 114 Vt 334, 336; 44 A 2d 548, 540.

Further, in support of Petitioner's claim that the State Bar (suitor) usurped the power of the Michigan Supreme Court, see Augusta Medical Complex, Inc v Blue Cross of Kansas, Inc (Kan 1980) 608 P 2d 890, holding " * * *

the Supreme Court had the power to hold in abeyance enforcement of such injunction by the injunction remaining in effect in the Supreme Court until mandate of said court was spread of record in the court below, to give the parties time to re-evaluate positions." Further, that "Restraining order of supreme court pending final determination of appeal expires on final determination of such appeal regardless of whether mandate is issued." Jackson v Dillehay, 210 Ark 556, 196 SW 2d 909.

Where the lower court was without authority to re-instate the case on perfected appeal, in the absence of a "remand" in the same case, "any order in the same case subsequently entered in the lower court is coram non judice (before one not a judge)." Watkins v Dunbar, (Ill 1925) 149 NE 14.

As to the erroneous claim of "sovereign immunity" by the State Bar of Michigan, this is in direct conflict with the "Rules Concerning the State Bar of Michigan," Rules 1, 5 and 16. APPENDIX 00, p. 175-176, Petitioner's

Appendix (tan cover). The State Bar rules are a grant of power to sue and be sued, expressed and implied, as made applicable by the provisions and limitations of the 14th Amendment to the U. S. Constitution. Rules 5 and 16 constitute a "waiver" of immunity, especially when the State Bar is the suitor, together with MCLA 600.916, APPENDIX PP, p. 177, together with 7 CJS, Practice of Law, at 727,

> " * * * In the enactment of statutes * * * the Legislature will be held to have intended only to protect the general public from exploitation, and not to protect the legal profession, especially since any such attempt of the latter would be invalid. * * * "

In People v Black, 282 NYS 197, 156 Misc 516, that court extended further in explanation that the legal profession does not require such artificial aid (from the courts) and held,

> "Any attempt to protect the legal profession is invalid. * * * The protection of the legal profession could not have been attempted, and if attempted or intended, is clearly invalid. * * * The legal profession does not require and should resent any such artificial aid."

In Michigan, we have a number of judges who have said "Nobody can come into my courtroom without a lawyer."[5/] In Smyth v Lubbers, (6th Cir) 1975, 398 F Supp 777, the court said,

> "An official action which is found to have violated constitutional rights is deemed ultra vires, beyond the officials authority because the state cannot lawfully authorize its officials to violate the constitution. Thus, under Section 1983, any person who, under color of law, deprives another of his * * * constitutional rights, is liable to the injured party at law or in equity. If a person acts under color of law, it is irrelevant whether the official was acting within or without

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5/ When law-student Jack Rose attempted to represent himself, Judge James S. Thorburn (Oakland County Circuit Court) appointed lawyer-Steven Andrews (Thorburn's campaign manager) as "guardian ad litem" for Jack Rose; where Jack Rose never even spoke to said so-called "guardian ad litem", Judge Thorburn ordered Jack Rose to pay $20,000. attorney fees to said "guardian ad litem". Judge Thorburn committed Rose to jail about 20 different times and on one occasion a detective was planted in jail, with Rose, to pose as a hit-man to set Rose up on framed charges that Rose wanted to kill Judge Thorburn. That case terminated by Rose's suicide in taking cyanide while in the courtroom. (Previously, Judge Kuhn had jailed Jack Rose for 10 days when Rose had only requested to see the public records in the Seaholm v Seaholm case.)

the scope of his employment by common-law standard." See, Ex parte Young, 209 US 123, 28 S Ct 441 (1909) Scheuer v Rhodes, 416 US 232 (1974) Smyth v Lubbers, 398 F Supp 777, Id.784

Petitioner herein has been ruthlessly denied due process of law and the equal protection of the law by the position taken by the Court of Appeals in this case. All of the issues which petitioner presented to the Court of Appeals for appellate determination on the merits are issues "not plainly frivolous". The invidiously discriminatory practices of the courts are obvious to the layperson representing herself, where at some level the appellant-layperson is cut off from having the appeal heard and determined on its merits and where the right to prosecute such an appeal has been established as in the instant case. No one would doubt that if the present case were being handled by a lawyer, it would have been heard and determined on its merits, even if the merits of issues were far less substantial than the issues tendered by this Peti-

tioner. The circumstances greatly point out the gravity of the unlawful and invidiously discriminatory practices against persons who attempt to exercise their "guaranteed" constitutional right to represent themselves, to avoid and/or escape from being exploited and/or victimized by incompetent or dishonest lawyers. However, in the present case, even the referral service of the Detroit Bar Association could not find a lawyer to "handle Cramer's legal matters."

Petitioner submits, furthermore, that the erroneous memorandum opinion and the dismissal by the district court of the entire constitutional cause of action under 42 USCA 1983, et seq., is a flagrantly invalid protection of the legal profession.

Further, where settled principles of judicial self-restraint are disregarded, this Court should literally leap to the opportunity to correct the serious errors of the district court and the Court of Appeals.

CONCLUSION

The petition for a writ of certiorari should be granted and this Court should permit a complete briefing in this case.

Respectfully submitted.

Virginia Cramer

Virginia Cramer, Petitioner
In Propria Persona
Plaintiff-appellant below

27314 Clairview
Dearborn Hts., Mich 48127
(313) 278-7286

February 1984